

116TH CONGRESS
2D SESSION

S. _____

To provide funding for States to improve their unemployment compensation programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WYDEN (for himself, Mr. VAN HOLLEN, Mr. SANDERS, Ms. CORTEZ MASTO, Mr. MARKEY, Ms. HIRONO, Mr. BLUMENTHAL, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide funding for States to improve their unemployment compensation programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Worker First Act of
5 2020”.

1 **SEC. 2. SPECIAL TRANSFERS FOR UNEMPLOYMENT COM-**
2 **PENSATION IMPROVEMENTS.**

3 (a) IN GENERAL.—Section 903 of the Social Security
4 Act (42 U.S.C. 1103) is amended by adding at the end
5 the following:

6 “(j) SPECIAL TRANSFERS IN FISCAL YEARS 2020,
7 2021, 2022 FOR IMPROVEMENTS.—

8 “(1) TRANSFERS.—

9 “(A) IN GENERAL.—In addition to any
10 other amounts, the Secretary of Labor shall
11 provide for the making of unemployment com-
12 pensation modernization incentive payments (in
13 this subsection referred to as ‘incentive pay-
14 ments’) to the accounts of the States in the Un-
15 employment Trust Fund, by transfer from
16 amounts reserved for that purpose in the Fed-
17 eral unemployment account, in accordance with
18 succeeding provisions of this subsection.

19 “(B) MAXIMUM INCENTIVE PAYMENT.—

20 The maximum incentive payment allowable
21 under this subsection with respect to any State
22 shall, as determined by the Secretary of Labor,
23 be equal to the amount obtained by multiplying
24 \$10,000,000,000 by the same ratio as would
25 apply under subsection (a)(2)(B) for purposes
26 of determining such State’s share of any excess

1 amount (as described in subsection (a)(1)) that
2 would have been subject to transfer to State ac-
3 counts, as of October 1, 2019, under the provi-
4 sions of subsection (a).

5 “(C) ALLOTMENTS.—Of the maximum in-
6 centive payment determined under subpara-
7 graph (B) with respect to a State—

8 “(i) one-third shall be transferred to
9 the account of such State upon a certifi-
10 cation under paragraph (6) that the State
11 meets the requirements of paragraph (2);

12 “(ii) one-third shall be transferred to
13 the account of such State upon a certifi-
14 cation under paragraph (6) that the State
15 law of such State meets the requirements
16 of paragraph (3); and

17 “(iii) the remainder shall be trans-
18 ferred to the account of such State upon a
19 certification under paragraph (6) that the
20 State law of such State meets the require-
21 ments of paragraph (4).

22 “(2) WORKER SAFETY.—A State meets the re-
23 quirements of this paragraph if the State provides
24 the Secretary with assurances that the State is en-
25 forcing laws, policies, or regulations (and will con-

1 tinue to enforce such laws, policies, or regulations
2 through the later of December 31, 2021, or the end
3 of emergency period described in section
4 1135(g)(1)(B)) under which—

5 “(A) work is not considered to be suitable
6 work under the State law unless the work is in
7 compliance with all applicable health and safety
8 guidelines and standards related to the preven-
9 tion of occupational exposure to COVID–19, in-
10 cluding such guidelines and standards issued by
11 the Occupational Safety and Health Adminis-
12 tration, under State plans approved under sec-
13 tion 18 of the Occupational Safety and Health
14 Act of 1970, by the Centers for Disease Control
15 and Prevention, and Federal, State, or by local
16 public health authorities; and

17 “(B) an individual is not disqualified from
18 regular unemployment compensation under the
19 State law for separating from employment if
20 that separation is because the work is not in
21 compliance with all applicable health and safety
22 guidelines and standards described in subpara-
23 graph (A).

1 “(3) MODERNIZATION.—The State law of a
2 State meets the requirements of this paragraph if
3 such State law provides for each of the following:

4 “(A) An individual is not disqualified from
5 regular unemployment compensation for sepa-
6 rating from employment if that separation is
7 for any compelling family reason. For purposes
8 of this subparagraph, the term ‘compelling fam-
9 ily reason’ means the following:

10 “(i) Domestic violence, sexual assault,
11 stalking, or harassment, verified by such
12 reasonable and confidential documentation
13 as the State law may require, which causes
14 the individual reasonably to believe that
15 such individual’s continued employment
16 would jeopardize the safety of the indi-
17 vidual or of any member of the individual’s
18 immediate family (as defined by the Sec-
19 retary of Labor).

20 “(ii) The illness or disability of a
21 member of the individual’s immediate fam-
22 ily (as those terms are defined by the Sec-
23 retary of Labor).

24 “(iii) The need for the individual to
25 accompany such individual’s spouse—

1 “(I) to a place from which it is
2 impractical for such individual to com-
3 mute; and

4 “(II) due to a change in location
5 of the spouse’s employment.

6 “(B) The State law—

7 “(i) uses a base period that includes
8 the most recently completed calendar quar-
9 ter before the start of the benefit year for
10 purposes of determining eligibility for un-
11 employment compensation; or

12 “(ii) provides that, in the case of an
13 individual who would not otherwise be eli-
14 gible for unemployment compensation
15 under the State law because of the use of
16 a base period that does not include the
17 most recently completed calendar quarter
18 before the start of the benefit year, eligi-
19 bility is determined using a base period
20 that includes such calendar quarter.

21 “(C) An individual is not denied unemploy-
22 ment compensation under any State law provi-
23 sions relating to availability for work, active
24 search for work, or refusal to accept work, sole-
25 ly because such individual is seeking only part-

1 time work (as defined by the Secretary of
2 Labor).

3 “(D) The State’s definition of suitable
4 work includes health and safety considerations
5 that ensure that a position shall not be deemed
6 suitable for an individual if the circumstances
7 present any unusual risk to the health or safety
8 of the individual.

9 “(4) EXPANSION.—The State law of a State
10 meets the requirements of this paragraph if such
11 State law provides for each of the following:

12 “(A) Payment of short-time compensation
13 is made under a short-time compensation pro-
14 gram (as defined in section 3306(v) of the In-
15 ternal Revenue Code of 1986).

16 “(B) The minimum duration of benefits is
17 at least 26 weeks and no variable duration for-
18 mula that provides for maximum weeks of bene-
19 fits of fewer than 26 weeks is used.

20 “(5) APPLICATION.—

21 “(A) IN GENERAL.—Any State seeking an
22 incentive payment under this subsection shall
23 submit an application therefor at such time, in
24 such manner, and complete with such informa-
25 tion as the Secretary of Labor may within 60

1 days after the date of the enactment of this
2 subsection prescribe (whether by regulation or
3 otherwise), including information relating to
4 compliance with the requirements of paragraph
5 (2), (3), or (4), as well as how the State intends
6 to use the incentive payment to improve or
7 strengthen the State's unemployment com-
8 pensation program. The Secretary of Labor
9 shall, within 30 days after receiving a complete
10 application, notify the State agency of the State
11 of the Secretary's findings with respect to the
12 requirements of paragraph (2), (3), or (4), as
13 the case may be.

14 “(B) LIMITATION.—No application under
15 subparagraph (A) may be considered if sub-
16 mitted—

17 “(i) prior to the date of enactment of
18 this subsection; or

19 “(ii) after the latest date necessary
20 (as specified by the Secretary of Labor) to
21 ensure that all incentive payments under
22 this subsection are made on or before De-
23 cember 31, 2021.

24 “(6) CERTIFICATION.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graphs (B) and (C), if the Secretary of Labor
3 finds that—

4 “(i) the State meets the requirements
5 of paragraph (2); or

6 “(ii) the State law provisions (dis-
7 regarding any State law provisions which
8 are not then currently in effect as perma-
9 nent law or which are subject to dis-
10 continuation) meet the requirements of
11 paragraph (3) or (4), as the case may be;
12 the Secretary of Labor shall make a certifi-
13 cation to that effect to the Secretary of the
14 Treasury, together with a certification as to the
15 amount of the incentive payment to be trans-
16 ferred to the State account pursuant to that
17 finding. The Secretary of the Treasury shall
18 make the appropriate transfer within 7 days
19 after receiving such certification.

20 “(B) SPECIAL RULE.—For purposes of
21 subparagraph (A)(ii), State law provisions that
22 are to take effect within 2 months after the
23 date of their certification under subparagraph
24 (A) shall be considered to be in effect as of the
25 date of such certification.

1 “(C) ADDITIONAL REQUIREMENTS FOR
2 CERTIFICATION.—

3 “(i) COMPLIANCE WITH OTHER STATE
4 LAW REQUIREMENTS.—No certification of
5 compliance with the requirements of para-
6 graph (2), (3), or (4) may be made with
7 respect to any State whose State law is not
8 otherwise eligible for certification under
9 section 303 or approvable under section
10 3304 of the Internal Revenue Code of
11 1986.

12 “(ii) COMPLIANCE WITH WORKER
13 SAFETY REQUIREMENTS.—No certification
14 of compliance with the requirements of
15 paragraph (3) or (4) may be made with re-
16 spect to any State that does not meet the
17 requirements of paragraph (2).

18 “(7) USE OF INCENTIVE PAYMENTS.—

19 “(A) BENEFITS.—Except as provided in
20 subparagraph (B), any amount transferred to
21 the account of a State under this subsection
22 may be used by such State only in the payment
23 of cash benefits to individuals with respect to
24 their unemployment, exclusive of expenses of
25 administration.

1 “(B) ADMINISTRATION.—A State may,
2 subject to the same conditions described in sub-
3 section (c)(2) (excluding subparagraph (B) of
4 such subsection, and deeming the reference to
5 ‘subsections (a) and (b)’ in subparagraph (D)
6 of such subsection to include this subsection),
7 use any amount transferred to the account of
8 such State under this subsection for the admin-
9 istration of its unemployment compensation law
10 (including administration for carrying out the
11 provisions of, and amendments made, by sub-
12 title A of title II of division A of the CARES
13 Act) and public employment offices, including
14 improvements in technology.

15 “(8) FUNDING.—Out of any money in the Fed-
16 eral unemployment account not otherwise appro-
17 priated, the Secretary of the Treasury shall reserve
18 \$10,000,000,000 for incentive payments under this
19 subsection. Any amount so reserved shall not be
20 taken into account for purposes of any determina-
21 tion under section 902, 910, or 1203 of the amount
22 in the Federal unemployment account as of any
23 given time. Any amount so reserved for which the
24 Secretary of the Treasury has not received a certifi-
25 cation under paragraph (6) by the deadline de-

1 scribed in paragraph (5)(B)(ii) shall, on January 1,
2 2022, become unrestricted as to use as part of the
3 Federal unemployment account.

4 “(9) DEFINITIONS.—In this subsection, the
5 terms ‘benefit year’, ‘base period’, and ‘week’ have
6 the respective meanings given such terms under sec-
7 tion 205 of the Federal-State Extended Unemploy-
8 ment Compensation Act of 1970 (26 U.S.C. 3304
9 note).”.

10 (b) REGULATIONS.—The Secretary of Labor may
11 prescribe any regulations, operating instructions, or other
12 guidance necessary to carry out the amendment made by
13 subsection (a).